



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

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**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
VIRGINIA ELECTRIC AND POWER COMPANY D/B/A/DOMINION
ENERGY VIRGINIA
FOR
DOMINION ENERGY - YORKTOWN POWER STATION LANDFILL
Solid Waste Permit Number 457**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board and Virginia Electric and Power Company d/b/a Dominion Energy Virginia, regarding the Yorktown Power Station Landfill, for the purpose of resolving violations of the Virginia Waste Management Act, Solid Waste Permit No. 457, and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. “Dominion” means Virginia Electric and Power Company d/b/a Dominion Energy Virginia, a corporation authorized to do business in Virginia. Dominion is a “person” within the meaning of Va. Code § 10.1-1400.
5. “Facility” or “Landfill” means Dominion Energy – Yorktown Power Station Landfill, located at 1600 Waterview Road in Yorktown, Virginia, which is owned and operated by Dominion.
6. “Leachate” means a solution resulting from leaching or soluble constituents from a landfill by downward percolation of water.
7. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
8. “Order” means this document, also known as a “Consent Order” or “Order by Consent.”
9. “Permit” means Solid Waste Permit (SWP) Number 457, which was granted on January 11, 1985, to Virginia Power Yorktown Power Station in accordance with the provisions of § 10.1-1408.1.A, Chapter 14, Title 10.1, Code of Virginia (1950) as amended. The Permit was granted for an industrial waste landfill.
10. “Regulations” or “VSWMR” means the Virginia Solid Waste Management Regulations, 9 VAC 20-81-10 *et seq.*
11. “TRO” means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
12. “Va. Code” means the Code of Virginia (1950), as amended.
13. “VAC” means the Virginia Administrative Code.
14. “Virginia Waste Management Act” means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 2 (Va. Code §§ 10.1-1408.1 through -1413.1) of the Virginia Waste Management Act addresses Solid Waste Management.

SECTION C: Findings of Fact and Conclusions of Law

1. On January 11, 1985, Dominion was granted a permit to operate a captive industrial landfill by DEQ. The Permit allows for the operation of the landfill for the disposal of fly ash, bottom ash, pyrites, and limestone injection burner ash.
2. The Facility has been operated as a captive industrial landfill since the permit was issued. Operations at the Facility are subject to the Virginia Waste Management Act, the Regulations, and the Permit.

3. On May 23, 2017, the Department received notification from Dominion of an unauthorized discharge of leachate. Staff evaluated this notification from the Facility for compliance with the requirements of the Virginia Waste Management Act, the Regulations and the Permit. Based on the evaluation and follow-up information, Department staff made the following observations:
 - a. There was an unauthorized discharge of leachate from the leachate collection tank into a complex of three stormwater basins, which are designed to discharge to surface waters. Dominion has not been issued a Virginia Pollutant Discharge Elimination System (“VPDES”) permit for discharges from the leachate collection tank.
 - b. According to the notification, the unauthorized discharge of leachate was the result of the pump switch in the leachate collection tank being left in the “off” position instead of the “auto” position such that leachate overflowed the tank instead of being pumped to the Hampton Roads Sanitation District system.
4. Solid Waste Permit No. 457, Permit Module I Part (I)(A) states, “Any disposal/management of solid waste not authorized by this permit is prohibited.”
5. 9 VAC 20-81-140(A)(6)(a) states, “Landfills shall not allow leachate from the landfill to drain or discharge into surface waters except when treated onsite and discharged into state waters as authorized under a VPDES Permit.”
6. Solid Waste Permit No. 457, Permit Module I Part (I)(B)(5) as per 9 VAC 20-81-140(A)(14) states, “The permittee shall at all times properly operate and maintain all units (and related appurtenances) which are installed or used by the permittee to achieve compliance with the operations manual and the conditions of this permit.”
7. 9 VAC 20-81-100(B) states, “All solid waste disposal facilities shall be maintained and operated in accordance with the permit issued pursuant to this regulation, and in accordance with the approved design and intended use for the facility.”
8. On June 19, 2017, based on the evaluation and follow-up information, the Department issued Notice of Violation No. TR-SW-06192017 to Dominion for the violations described in paragraphs C(3) through C(7), above.
9. On June 21, 2017, Dominion responded to the NOV. On July 6, 2017, Department staff met with representatives of Dominion to discuss the alleged violations. On July 13, 2017, Dominion submitted follow up documentation describing the events that led to the discharge.
10. Based on the results of May 23, 2017 evaluation, the July 6, 2017 meeting, and the documentation submitted on July 13, 2017, the Board concludes that Dominion has violated Solid Waste Permit No. 457, Permit Module I Part (I)(A), 9 VAC 20-81-

140(A)(6)(a), Solid Waste Permit No. 457, Permit Module I Part (I)(B)(5), and 9 VAC 20-81-100(B), as described in paragraphs C(3) through C(7), above.

11. DEQ staff inspected the Facility on July 6, 2017, and verified that the violations described in paragraphs C(3) through C(7), above, have been corrected. Dominion submitted documentation on July 13, 2017, that further verifies that the violations described in paragraphs C(3) through C(7), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Dominion, and Dominion agrees to:

Pay a civil charge of \$7,500 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Dominion shall include its Federal Employer Identification Number (FEIN) [(xx-xxxxxxx)] with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Dominion shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Dominion for good cause shown by Dominion, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. TR-SW-06192017 dated June 19, 2017. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, Dominion admits the jurisdictional allegations, and agrees not to contest, but neither admits nor denies, the findings of fact and conclusions of law contained herein.
4. Dominion consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Dominion declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Dominion to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Dominion shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Dominion shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Dominion shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will

result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Dominion. Nevertheless, Dominion agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Dominion has completed all of the requirements of the Order;
 - b. Dominion petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Dominion.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Dominion from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Dominion and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Dominion certifies that he or she is a responsible official [or officer] authorized to enter into the terms and conditions of this Order and to execute and legally bind Dominion to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Dominion.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Dominion voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 13 day of November, 2017.



Craig Nicol, Regional Director
Department of Environmental Quality

Virginia Electric and Power Company d/b/a Dominion Energy Virginia voluntarily agrees to the issuance of this Order.

Date: 10/09/17 By: Pamela Faggert, Chief Environmental Officer and Senior Vice President of Sustainability
(Person) (Title)
Virginia Electric and Power Company

Commonwealth of Virginia
City/County of Henrico

The foregoing document was signed and acknowledged before me this 9th day of

October, 2017, by Pamela F. Faggert who is
Chief Environmental Officer and Senior Vice President of Sustainability of Virginia Electric and Power Company, on behalf of the corporation.

Angela B. Fitzgerald

Notary Public
7022016

Registration No.

My commission expires: 3/31/18

Notary seal:



